

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Toll-Free Service Access Codes)	CC Docket No. 95-155

**Comments of
Alexicon Telecommunications Consulting**

Alexicon Telecommunications Consulting (Alexicon) files these comments in response to the Public Notice issued in the above-captioned proceeding relating to Gila River Telecommunications, Inc.'s (GRTI) Petition for Waiver of the High Cost Loop Support National Average Cost per Loop.¹

Alexicon provides professional management, financial and regulatory services to a variety of small rate-of-return Incumbent Local Exchange Carriers (ILECs) and their affiliates who serve diverse geographical areas characterized by rural, insular or Native American Tribal Lands. These ILECs, similar to most other small rate-of-return regulated ILECs, currently provide a wide range of technologically advanced services to their customers. These companies, through participation in various State and Federal high cost funding programs, and with their continued investment in network infrastructure, are providing customers in rural, insular and Tribal areas with services equal to or greater than urban areas, and at comparable pricing. Furthermore, these ILECs are committed to providing their customers with innovative solutions, by adapting technologies that fit rural America, including Broadband and IP-enabled services.

¹ *Wireline Competition Bureau Seeks Comment on Gila River Telecommunications, Inc.'s Petition for Waiver of the High Cost Loop Support National Average Cost per Loop*, Public Notice, WC Docket No. 95-155, DA 17-855 (rel. September 7, 2017) (*Public Notice*)

Alexicon fully supports the relief sought in GRTI's Petition for Expedited Waiver filed, notably, on November 2, 2015.²

Background

The Commission adopted the decision that is the basis of GRTI's *Petition* in 2014.³ The decision in question changes the way the Commission's High Cost Loop Support (HCLS) indexed cap rule is applied, in order to address what the Commission termed the "cliff effect" where carriers with costs close to the National Average Cost per Loop (NACPL) risked losing all support.⁴ Instead of the, at the time, current process, the Commission adopted a NACPL freeze that in effect spread the effects of the indexed cap among all carriers on a proportional basis. While this helped with the "cliff effect" it also resulted in reduced, sometimes dramatically so, HCLS for many companies. This is the situation in which GRTI finds itself.

GRTI is a Tribally-owned and operated telecommunications carrier that serves a reservation area – the Gila River Indian Community – located in Arizona. As stated in GRTI's petition, the reservation covers approximately 582 square miles and has a population density of around 20 persons and 6.5 access lines per square mile. In addition, GRTI serves a largely low-income population, with the median income approximately 39 percent lower than the national average and 48 percent of the residents live below the poverty line. Added to these demographic challenges are the realities of serving a rural, Tribal area: costs of complying with the Bureau of Indian Affairs rights-of-way process and the cultural clearance process, and the added costs of building and maintaining a network in an environment where the temperature regularly exceeds 105 degrees Fahrenheit during the summer. Clearly, GRTI faces substantially higher and unique costs for providing service in a Tribal area as compared to carriers serving non-Tribal, lower cost areas. This fact, naturally, manifests itself in the level of GRTI's need for HCLS.

GRTI requests that the Commission order the National Exchange Carrier Association (NECA) to cease applying the Pro Rata adjustment factor in relation to its HCLS, and to make this

² *Gila River Telecommunications, Inc. Petition for Expedited Waiver of the Commission's National Average Cost Per Loop Freeze Decision*, WC Docket Nos. 10-90, 14-58, 07-135, and 14-192, filed November 2, 2015 (*GRTI Petition*)

³ *In the Matter of Connect America Fund*, WC Docket No. 10-90, Report and Order, FCC 14-190 (rel. December 18, 2014) (*NACPL Freeze Order*)

⁴ *Id.*, at 103

change retroactively to January 1, 2016.⁵ GRTI has provided a substantial amount of data to support its petition, and has given the Commission reason to believe that GRTI is a good steward of its HCLS.

Standards for Waiver

GRTI has met the standards established for Commission grant of its Petition. GRTI's petition clearly demonstrates that strict compliance with the Commission's NACPL freeze decision is inconsistent with the public interest. In GRTI's case, the public interest is the continued provision of services, and ongoing operation, maintenance, and upgrade of its telecommunications network. GRTI rightly states that without the reestablishment of its pre-NACPL freeze level HCLS, its abilities to continue provision of service at current levels, operating and maintaining its network, and investing further in its infrastructure will be difficult, if not impossible.

The Commission, when addressing Petitions for Waiver, may also take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. GRTI clearly established that a substantial hardship, in the form of a severely reduced ability to continue providing services at affordable rates, would occur absent the relief sought in the waiver.

In addition to the above-discussed standards, the Commission may also waive its rules if special circumstances warrant a deviation from the general rule and such a deviation will serve the public interest. In GRTI's case, special circumstances that would warrant a deviation of the frozen NACPL decision relate to the unique challenges GRTI faces in serving a Tribal area. These challenges are well-documented in GRTI's petition and include rights-of-way, cultural clearance, geographic, and demographic factors.

GRTI's Substantiation of its Claims

GRTI's Petition hinges on two main arguments: (1) GRTI "faces a number of unique challenges that make application of the...NACPL Freeze Order...extremely difficult, if not impossible, to overcome"⁶ and (2) a demonstration "that the concerns this policy change is

⁵ *GRTI Petition* at 3

⁶ *Id.*, at 1

intended to address are demonstrably not applicable to GRTI's operations, to the contrary GRTI has been a good steward of USF funds..."⁷ In support of these main arguments, GRTI has provided substantial information to the Commission, including two updated/revised petitions⁸, full financial statements⁹, and the submission of updated NECA data.¹⁰

GRTI has clearly demonstrated, via its numerous data submissions, that waiver of the NACPL Order is warranted in its specific circumstances. The pertinent data is discussed at length in GRTI's Petition and updated petitions. In addition, GRTI has shown that it is indeed a good steward of universal service support received, and falls outside of any reasonable definition of the type of entities the Commission may have had in mind when it adopted the NACPL freeze (e.g., "race to the top").

Overall High Cost Support Program Budget

In a recent Ex Parte Submission to the Commission, GRTI expressed its support for a proposal made by NTCA in regards to addressing the overall high cost support program budget.¹¹ In that communication, GRTI states:

"In its request for relief from the Commission's freeze of the national average cost per loop (NACPL), GRTI demonstrates the validity of NTCA's statements concerning the insufficiency of funding currently being provided to rural local exchange carriers (RLECs). In its petition, GRTI states that it faces a reduction in loop support of \$896,000 per year from just this one reform, which is a 16 percent reduction in support – well in excess of the six to seven percent that the Commission estimated as the upper bound for support reductions. When combined with other support reductions based on the Commission's reforms, GRTI faces an overall annual reduction in support of \$3.12 million."¹²

Alexicon agrees with GRTI's assessment and the correlation of the NACPL Freeze decision with the inadequate overall budget for the rate-of-return carrier high cost support programs. The Commission must address this deficiency as NTCA suggests – by undertaking a comprehensive

⁷ *Id.*, at 2

⁸ See GRTI July 22, 2016 Revised Petition and GRTI May 19, 2017 Revised Petition.

⁹ See GRTI's July 22, 2016 submission of financial information concerning historical and projected telecommunications revenues and expenses

¹⁰ See GRTI Ex Parte submissions dated July 5, 2016 and October 4, 2017

¹¹ GRTI Ex Parte submission filed September 19, 2017 in WC Docket No. 10-90

¹² *Id.*

review of the budget. In the meantime, however, GRTI faces a real and immediate crisis which the Commission can help alleviate by a grant of relief sought in the *Petition*.

Conclusion

GRTI filed its *Petition* over 700 days ago, on November 5, 2015, and properly requested expedited relief of the Commission's NACPL Freeze Order. GRTI has provided substantial amounts of information to the Commission in support of its arguments contained in the *Petition*, and has filed almost continual updates to the data supporting it. GRTI has done everything in its power to provide the Commission with the information it needs to make a decision. Alexicon urges the Commission to act immediately and grant the relief sought in the *Petition*, and give the residents of the Gila River Indian Community the fighting chance they need to be able to afford vital communications services GRTI provides.

Respectfully Submitted,

Alexicon Telecommunications Consulting

October 10, 2017